

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 10-6273 CR RCH

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United States District Court
Southern District of Florida.
CASE NO. 00-6273 CR-HACK

United States of America
Plaintiff

vs
Ariel A Hernandez
Defendant.

FILED BY CLERK SEP 1 2000 9:00 AM
CLERK OF THE COURT

Motion to Appoint Counsel pursuant
to 18 USC 3006A (H, I), 2 (B) AND
18 USC 4109

comes now the Defendant, Ariel A Hernandez
proceeding without the benefit of an attorney
and moves this Court to appoint him a
attorney pursuant to 18 U.S.C. 3006A (H, I)
2 (B) AND 18 U.S.C. 4109. The defendant avers
the following:

1. This Court has the power and authority under
the above stated Criminal code and Rules (Federal)
2. On January 10, 2004, The Supreme Court denied
to hear this defendants case.

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ft

3. under 18 U.S.C. 3006A (1) states:

Representation shall be provided for any financially eligible person who:

Section (A) is entitled to appointment of counsel under the Sixth Amendment of the Constitution

Section (I) faces loss of liberty, in it's life, And Federal law requires the appointment of counsel

4. under 18 U.S.C. 3006A (2) states:

Whenever the United States magistrate judge or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who:

Section (B) is seeking relief under section 2241, 2254, or 2255 of title 28

5. The defendant is seeking relief under 28 U.S.C 2255 and plans thru appointment of counsel that.

1. Mr. Weinkle never has the defendant interest in mind

2 Failed to conduct proper investigation

3 Has evidence that showed government witnesses

committed perjury along with Broward Sheriff's Office Deputies fabricated evidence, committed perjury grossly violating this defendant's rights.

4. Before trial Government witnesses, B.S.O officers, ILLARAZA, Thomasevich, AND Devine were under investigation by Internal Affairs for many civil rights violation and were named in a Federal civil suit. for civil rights violation.

5. Prosecutors. Jeffrey Sloman AND Lawrence LaVecchia had no evidence to show the victim was a target of a alledge mob hit. Further more ALL the information given to these Prosecutors by the defendant was the result of a Proton Letter in which MR. SLOMAN stated to me that the information provided would not be used against me. In this case everything I gave them was used against me plus information provided resulted in several search warrants were evidence was found.

6. No evidence to tie me to the victim. The Government had a sole witness who testified that she saw me and the victim one time at a store, whom this witness was involved in the check scheme and received cash for her help to pass the checks at Office Depot, and should have been treated as a hostile witness.

7. The Government used evidence collected by B.S.O with a Attorney Appointed He could bring some light on over 37 major discrepancies on Reports, Depts, testimony, and in evidence. Example.
At trial Tony Banks testified under questioning by Jeffrey Stoman (prosecutor) that I paid him 10⁰⁰ to throw out the sheets, ~~bed~~, blankets, pillow cases, towels which I placed in a black garbage bag. He testified the beds were stripped. How then is it possible that 1 week after he threw out all the Linens, Blankets, towels etc. B.S.O Crime Scene Detective with ILLAVERD find my DNA AND the victims on the very same items MR. Tony Banks Threw away. I remind you These items were never recovered. ~~common~~ Logic dictates the maids of the Hotel would ~~had~~ have had to place new Linens, Blankets, towels etc. in the Hotel Room. MR Stoman Knew this but never did the right thing because He wanted to win the case at any cost even if a innocent man was being setup. on that his B.S.O witness committed perjury.

Defendants own Attorney knew this AND he also failed to bring this into light AND has a jury Accts the truth. it would ~~not~~ have raised a huge shadow of Doubt.

clearly Defendants rights were violated by the prosecution and his own Attorney at trial. This is just one example of many other things that should have been brought to light at trial and the jury should have heard.

8. F.B.I. never investigated fully to see if there was any former ties with defendant AND victim in a check scheme. B.S.O. Actually did a complete investigation in which Lead Investigator Detective ILLANAZA stated on Depo (#1) that he could not find any connections with victim AND defendant. Three witnesses interviewed, victims Home phone records, cell phone record, Defendants cell phone record, hotel phone record even the victims' sister, family and close friends knew of ANY association with victim AND defendant or any involvement in organized crime group or groups. ILLANAZA stated he told FBI this and he thought death was an accidental.

9. Medical Examiner should have been treated as a hostile witness since she was sleeping with one of the B.S.O. Homicide Detectives, (Thomasevich) she would clearly point out why she hesitated on many questions AND did not agree with Doctor Donald Wright, Defense Medical expert who testified on the Government's behalf on many High profile cases.

10 The Government could not produce Joseph Maffai. (The individual who started this whole Mob Hit scenario) for cross examination AND who was a paid Government informant.

11. There are in total 35 major issues that if they were brought to light there would have never been a guilty verdict on the Rico charge AND Munden under Rico because Trial Attorney had all of this evidence AND refused to use it. He also never told the Defendant of the Government's offer of 20 years. If he would testify, he went against my desire to testify at trial, the arrangement was I would testify yet I was never called Mr Winkle had a lot of witnesses to support my defense but did not use it.

12 Clearly there are many complex issues involved Appointment of a Attorney would be of a great service to Justice AND this Defendant who is IN the penils of forever losing his liberty AND further more since Defendant is not trained in law. AND is seeking relief in 28 USC 2255 motion. AND under 18 USC 3006 A is

Entitled to Appointment of counsel because in
the interest of Justice it is demanded AND
because defendant is indigent,

Therefore Defendant Moves This Honorable
Court for an Order Appointing Counsel
under 18 USC 3006A (2)(B) mainly AND
Section 1(h.1). Since Mr. Rosebauer is familiar
with the case he could be Appointed
under 18 USC 3006A (2)(B) which would cause
this process to move even more quickly

Respectfully Submitted
Andrea A. Hernandez
040061011

T.G.K.

7000 NW 41 ST

Miami, FL 33166

Certificate of Service

I certify that a true and complete copy of the
foregoing motion was sent via U.S. Mail on 29
August, 2005 to Lawrence La Vecchio and Jeffrey
Sloman to 500 EAST BROWARD BLVD 7th Floor
Ft. Lauderdale, FL 33394.